IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928

WP(C).No. 3343 of 2007(W)

LAR.353/2000 of PRL.SUB COURT, KOZHIKODE
.....

PETITIONER:

M.K. UNNIKRISHNAN, S/O. JANAKI AMMA,
MOOLAMVALLI KEEZHILLATH HOUSE,PUTHIYANGADI VILLAGE
EDAKKAD DESOM OF KOZHIKODE TALUK.

BY ADV. SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN

RESPONDENTS:
----

1. THAYYIL PANKAJAVALLI AMMA,
AGED 48 YEARS, W/O. BALAKRISHNAN NAIR,
PANKAJA NIVAS, KUKRUKKAYIL PARAMBA,
PUTHIYANGADI VILLAGE, EDAKKAD DESOM.

2. THE SPECIAL TAHSILDAR (LA),
KOZHIKODE, CIVIL STATION, CALICUT-20.

BY GOVERNMENT PLEADER SRI.V.T.K.MOHANAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = =

W.P.C. NO. 3343 OF 2007

= = = = = = = = = = = = = = = =

Dated this the 2nd day of February, 2007.

J U D G M E N T

This writ petition is filed to quash the order passed in LAR No.353/00(Ext.P8). As per the judgment of this Court in WPC 29426/05, there was a direction to the trial court to give appropriate direction to the Commissioner appointed by the Court to expeditiously submit a report after getting the requisite assistance from the Taluk Surveyor. The trial court appointed one Advocate Commissioner A.K. Omesh Kumar as the Commissioner thereafter. It was on account of the fact that the previous Commissioner was not in a position to execute the warrant. Whatever it may be, the direction of this Court remains and this Court found the imperative necessity of issuance of a Commission with the assistance of the Taluk surveyor for resolving the dispute interse between the parties. The trial court is bound to comply with that direction and that Court has precisely carried out the said direction and issued a fresh Commission when he previous Commissioner expressed his inability to do the work. The learned counsel for the writ petitioner submits that there are civil

litigations pending between the parties before the civil Court and the claim in the suit has been withdrawn and the withdrawal of the suit will amount to virtually nullifying the issue that is to be adjudicated in LAR 353/00. These are all matters which the Land Acquisition Court has to adjudicate after hearing both sides.

As far as this writ petition is concerned, it has to be held that the trial court has only carried out and implemented the direction of this Court and therefore it does not suffer from any illegality or irregularity and therefore the writ petition is dismissed. But it is made clear that the writ petitioner will be entitled to raise the plea or impact of the withdrawal of the suit, when the matter is being adjudicated to resolve the dispute in L.A.R.353/00. The trial court shall also direct the Taluk Surveyor to render necessary assistance.

M.N. Krishnan, Judge.

ul/-